

SENTENCING  
ALTERNATIVES

**PRE-SENTENCE MEMORANDUM**

Submitted in regard to

**THE UNITED STATES OF AMERICA**

-v-

**JOHN AVVENTO**  
Docket No. 11-CR-612-01

Before the Honorable Sterling Johnson, Jr.  
Senior United States District Judge  
United States District Court, Eastern District of New York

Marisa M. Seifan, Assistant U.S. Attorney  
Arthur L. Aidala, Attorney for Defendant

Prepared by: Chris Napierala, Director

Court Date: May 22, 2012

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## **I. Introduction**

This Pre-Sentence Memorandum is submitted by Sentencing Alternatives at the request of defense counsel, Arthur Aidala, on behalf of his client, John Avvento. Mr. Avvento pled guilty to one count of Distribution and Possession with Intent to Distribute Cocaine (21 USC § 846, 841(a)(1) and 841 (b)(1)(c), a class C felony, under Docket 11-CR-612-01.

Sentencing Alternatives assists defense attorneys in plea negotiations, sentencing advocacy, alternative-to-incarceration placements, and pre-sentence monitoring of defendants. The purpose of this report is to provide the Court with information that is relevant to determining a just sentence. Information contained herein is based upon the following:

### Interviews

- two face-to-face interviews and numerous telephone and email communications with John Avvento
- telephone interview with Anna Wlody, his fiancée and the mother of his son
- telephone interview with Donna Avvento, his sister
- telephone interview with Nick Avvento, his brother
- telephone interview with Felice Cultrera, his sister
- telephone interview with John Cultrera, Felice Cultrera's husband
- telephone interview with Millie Hillary, a paternal aunt
- telephone interview with John Messineo, a maternal cousin
- telephone interview with Chris Koppchinski, a paternal second cousin and a fireman for the New York City Fire Department
- telephone interview with Andrea Damon, a maternal cousin
- telephone interview with Dawn Hanley, a lifelong friend and the godmother of his son
- telephone interview with Rob Del Valle, a former New York City Police Department (NYPD) officer and Mr. Avvento's first partner in the Police Service Area 3 (PSA 3) Housing Bureau in Brooklyn
- telephone interview with retired NYPD Detective Richard Caetano, who worked with Mr. Avvento in PSA 3
- telephone interview with Richard Cosentino, a former NYPD sergeant and direct supervisor of Mr. Avvento at the 62<sup>nd</sup> Precinct
- telephone interview with James Girdusky, a former NYPD officer who worked with Mr. Avvento at Central Booking
- telephone interview with Frank Elie, a former fourth-grade student of Mr. Avvento at Our Lady of Grace School, located in Brooklyn
- telephone interview with Rosemarie Elie, Frank Elie's mother

- telephone interview with Cassandra, a former fourth-grade student of Mr. Avvento's at Our Lady of Grace, whose surname is known to Sentencing Alternatives but requested that it not be used in this report
- telephone interview with Lorraine O'Neill, whose son was a fourth-grade student of Mr. Avvento's at Our Lady of Grace
- telephone interview with John Chisholm, a former high-school classmate and a friend of approximately 27 years
- telephone interview with Mike Hanley, a childhood friend and proprietor of Ace Steam Cleaning, where Mr. Avvento was previously employed
- telephone interview with Mike Candella, a lifelong friend of Mr. Avvento, Director of Advantage Staten Island, and former Director of Youth Dares, for which Mr. Avvento worked during approximately 2000-2001
- telephone interview with Betty Zmolil, his former landlord and the grandmother of one of his former students
- telephone interview with Diane Yuzary, a former middle-school classmate and a subsequent girlfriend of two years
- telephone interview with Heather Gottesman, a former girlfriend of five years
- telephone interview with Frank Macchiarola, Ph.D., Chancellor of St. Francis College, in Brooklyn, and Mr. Avvento's former little-league baseball coach
- telephone interview with Irene Lopez, Assistant Registrar, Kingsborough Community College, which Mr. Avvento attended during 1989 - 1991
- telephone interview with Marisa Mabli, Program Director at Bridge Back to Life, where Mr. Avvento participated in outpatient substance-abuse treatment during 2003
- telephone interview with Ronald Rodriguez, LCSW, Mr. Avvento's psychological therapist during 2006 - 2010

#### Resource Review

- Presentence Investigation Report prepared by United States Probation Officer Angelica Deniz, dated April 30, 2012
- documents from defense counsel's case file: Complaint and Affidavit in Support of Application for Arrest Warrant; Warrant for Arrest; Order Setting Conditions of Release and Bond
- treatment-confirmation letter, Ronald J. Rodriguez, LCSW, Confirming Mr. his psychological treatment of Mr. Avvento during 2006-2009
- medical records documenting Mr. Avvento's treatment by spinal surgeon William K. Main, M.D., including Dr. Main's own treatment summaries and diagnostic evaluations as well as records from the following: MRI Associates of Brooklyn, P.C.; Voorhies Diagnostic Radiology, P.C.; Corinthian Diagnostic Radiology; Beth Israel Medical Center; Doshi diagnostic; Narrows MRI and Diagnostic Radiology, PC; Regency Medical Imaging; East Manhattan Diagnostic Imaging, P.C.; Lenox Hill Hospital; Nostrand MRI and Diagnostic



- treatment-confirmation letter from David S. Klug, M.D., Mr. Avvento's gastroenterologist, concerning Mr. Avvento's conditions and treatment from July 1994 through present
- treatment summary, W. Norman Scott, M.D., documenting orthopedic treatment during 2008
- Discharge Summary, Staten Island University Hospital, documenting Mr. Avvento's July 2008 inpatient detoxification treatment
- topix.com article synopsis, comments, and link to newsday.com article regarding the fire death of Mr. Avvento's former psychotherapist, Nancy Gambitta, in late 2006
- employment-confirmation letter, Joan McMaster, Principal, Our Lady of Grace School
- employment-confirmation letter, Sister Dolores Crepeau, CSJ, Principal, Fontbonne Hall Academy
- transcript, St. Francis College
- enrollment-confirmation letter, Irene Lopez, Asst Registrar, Kingsborough Community College
- Transcript of High School Record, James Madison High School
- character letters, which are appended

We also conferenced the case with defense counsel.

Based on our investigation, we present below a psychosocial history of Mr. Avvento and an analysis of factors that we believe merit the Court's consideration at sentencing. Because Mr. Avvento's history and condition are rather unique—he is a former police officer and school teacher, and has an unusually extensive medical history—and bear significantly on his offense conduct and the prospective sentence, we cover them in detail. We strongly believe that those factors, the case facts, his lengthy addiction history, his rehabilitation, and his current condition and circumstances, heavily favor a non-custodial disposition.

## **II. Psychosocial History**

### **A. Family Composition**

John Avvento was born on November 14, 1971, at Caledonia Hospital on Staten Island, to Marie (nee Messineo) and Nicholas Avvento, Sr. (hereafter, “Mrs. Avvento” and “the elder Mr. Avvento”), and is the youngest of their five children. His siblings are: Donna Avvento, age 56, who resides in Danbury, Connecticut with her 34-year-old daughter, who suffers from Down Syndrome, and works as a hairdresser; Felice Cultrera, age 54, a married mother of two who resides in Freehold, New Jersey, and works as a school secretary; Geraldine Avvento, age 50, a divorced mother of one who resides in Brooklyn and is unemployed; and Nicholas Avvento, Jr., age 49, a separated father of three who resides in Brooklyn and works for the Federal Reserve Bank of New York. Mrs. Avvento died in December 2010 after suffering a pulmonary embolism; the elder Mr. Avvento died from mesothelioma in October 2008.

Mr. Avvento resides at 538 Seaview Avenue, # B, Staten Island, New York, with his fiancée and companion of four years, Anna Wlody, and their sons, Nicholas Avvento, who turns age three this June, and infant Jonathan Daro Avvento, born on April 28, 2012. Ms. Wlody works as a billing coordinator for a security firm. Mr. Avvento receives a pension from eight years’ service with the New York City Police Department and Supplemental Security Income (SSI) for chronic back and knee conditions. He is currently under medical care for these and other chronic medical conditions, described herein, and also receives psychological and pharmacological treatment for longstanding Anxiety and Depression.

#### **B. Birth through Junior High School**

Mr. Avvento was born full term and physically healthy, and remained healthy throughout childhood. He was raised with his nuclear family in a house the parents owned in Sheepshead Bay, Brooklyn, in what numerous sources characterized as a traditional working-class household. The elder Mr. Avvento worked as a longshoreman and a construction contractor, typically six days pr week, 70 or more hours, and Mrs. Avvento was the homemaker and primary care provider. No source reported a history of abuse towards the children, significant marital discord, or parental substance abuse or mental illness.

Regarding early-childhood development, Mr. Avvento reportedly achieved major milestones within normal limits and was socially engaged and enthusiastic, by some accounts hyperactive; physically, he was heavysset and tall, far larger than most peers as he neared school

age. Until kindergarten, he was supervised at home by his mother, by most accounts attentive but stern, demanding and a strict disciplinarian, and his siblings, who are from sixteen to nine years his senior. Collateral sources—maternal aunt Millie Hillary; siblings Donna Avvento, Felice Cultrera and Nicholas Avvento; former neighbors Michael and Dawn Hanley; cousins Chris Koppchinski, Andrea Damon and John Messineo—broadly portrayed a boy who was instinctively buoyant, kind and compassionate but impulsive, sensitive and increasingly anxious in a household of large and often brash personalities; hungry for the attention and approval of his father, whose long work hours left him tired, with limited time for Mr. Avvento.

Mr. Avvento and most of the above sources characterized his schooling at St. Edmund's Elementary School as thoroughly negative. He recounted frequent bullying because of his physical size, particularly his weight, and the inattentiveness, fidgeting and poor performance symptomatic of his then-undiagnosed Attention Deficit Hyperactivity Disorder (ADHD). Mr. Avvento recalled that even some teachers ridiculed him in front of the class. "I couldn't sit still," he explained, "couldn't focus...Some [teachers] basically called me fat, stupid...The nuns pulled my hair because I kept moving in my seat...put me in the corner, and everybody'd laugh at me for a half hour...It was humiliating." Despite being curious and bright, Mr. Avvento could not focus on the lessons and barely passed. Thus dreading school, he fought his mother to stay home.

Bullying also became commonplace in the neighborhood, where Mr. Avvento was often the butt of jokes and catcalls. "Fat John! Fat John!" Mr. Hanley recalled. "A couple of times, and he'd get really upset. He took a lot." Mr. Avvento stated that he was also keenly aware of his siblings' athleticism and, as he became an avid baseball player—soon quite good despite his build—his father's criticisms as a former AA-league player.

Mr. Avvento reported that he eventually began to stutter in school, and to suffer severe stomach pains. Mrs. Cultrera confirmed this account and characterized him as increasingly anxious in general, fraught with worry regarding school. "It got pretty bad," she recalled. At roughly age nine, in third grade, under a particularly critical teacher, this led to a hospital admission for chronic stomach pain and what he termed "a nervous problem." Mrs. Cultrera stated that their mother then confronted the principal about Mr. Avvento's mistreatment.



Despite these circumstances, Mr. Avvento reportedly exhibited no aggressive conduct and was considered unfailingly kind, if sometimes loud and overly eager. He obsessed over baseball; took a paper route, which he kept through adolescence; volunteered at a St. Edmund's program for developmentally disabled students; and was active and social. The following observations are indicative of those that sources provided regarding this period:

Getting picked on was really hard for him...He had very serious anxiety...but he had a heart of gold, always the first one to help...When he was seven, and he found out his niece had Down Syndrome, the next day he went out and bought her a little present because he was devastated. That's the kind of kid he was...the kind of thing he's always done.

- Felice Cultrera

He was always trying to prove himself. Our parents were tough on him...a lot tougher than they were on us because he told them every little thing he did...was so honest...That, getting picked on a lot...the distance with our father back then—John wanted attention...He was such a good kid. He was always bringing injured animals home, taking care of them...If he saw a handicapped person on the street, especially an older person...he'd stop and talk to them...always concerned for the underdog.

- Nicholas Avvento, Jr.

His family was very athletic, so he stood out, even though he was a good baseball player...He was always trying to catch up—reading, school—things took him longer, which is why becoming a teacher was the greatest accomplishment...Such a nice kid, but he worried about everything...It wasn't an environment where any credence was given to emotions.

- Dawn Hanley

We grew up tough kids, but we weren't bad kids...He was passionate...very impulsive, neurotic about *everything*...afraid of every conceivable illness, always thinking worst-case scenario...It was a loud, crazy house, a lot of drama...and he was always trying to get his father's approval...He was the one who'd be sweeping up the old lady's backyard, doing favors for people...The biggest heart. No matter who broke the window, John took the blame for it, always.

- Michael Hanley



Mr. Avvento reported that although teachers' ridicule at St. Edmund's ceased after his mother's intervention, peer ridicule did not; thus his anxiety persisted. However, increasing success in baseball gradually improved his confidence.

After completing sixth grade at a nearby public school without significant incident, Mr. Avvento attended Arthur W. Cunningham Junior High School. He stated that he developed an interest in history, still an abiding passion, and with considerable effort improved his grades. Despite what Cunningham classmate and later girlfriend Diane Yuzary described as frequent ridicule due to his weight, "lots of kids picking on him...him taking things to heart," he remained "a very sweet kid...defensive but very sensitive." He stated that he maintained his paper route and typically spent his free time playing sports. No source recalled significant untoward conduct. Frank Macchiarola, Ph.D., Chancellor of St. Francis College, who coached him in little league during this period, recalled of him, "He struggled a bit in school, but he wasn't a troublemaker...definitely a good boy, a big boy, and a good ballplayer."

### **C. High School and Community College**

Mr. Avvento graduated to James Madison High School. His transcript confirms that he earned satisfactory grades, a cumulative average in the mid-C to low-B range. He stated that although he was more able to control the symptoms of his still-undiagnosed ADHD—he reported being diagnosed at age seventeen but refusing medication—he remained largely nervous and self-conscious, sensitive to others' perceptions of him and fearful of ridicule. This changed as Mr. Avvento began to exercise obsessively to lose weight and gain muscle for baseball—he was starting catcher for the school—and pickup football. Donna Avvento recalled, "Chicken cutlets and salad, that's all he would eat. Very disciplined—no sugar and no fat for years, always exercising."

Several sources confirmed that Mr. Avvento became a star baseball player. With rapidly increasing fitness and weight loss, new confidence from success in baseball and wider peer approval, his social anxiety gradually diminished, if not his underlying nervousness and tension. Two notable occurrences followed from his fitness, success and improved

confidence: First, Mr. Avvento did not drink alcohol or take illicit drugs. Every source familiar with his conduct at the time confirmed this. “He was a clean-living kid,” cousin Andrea Damon noted. “No drugs, no alcohol,” despite socializing with friends who routinely used both. Second, Mr. Avvento began to intervene on behalf of kids who were being bullied. The Hanleys recalled numerous incidents in which, as Ms. Hanley described it, “He took the role of defender...stood up for the runts of the pack.” Although this sometimes resulted in fights, Mr. Avvento was reportedly not an aggressor.

Mr. Avvento reported that he worked part time at a United Artists move theater during his junior and senior years. This, baseball, socializing, and girlfriend Heather Gottesman, whom he dated on and off for the next five years, occupied his free time. She and other sources confirmed his account of this period.

By that time, Mr. Avvento had decided that he wanted to become a police officer. “He believed being a cop was gonna make a difference in the world,” brother-in-law John Cultrera recalled. “I mean he *really* believed it...a true believer.” Mr. Avvento stated that he took and passed the civil-service exam as a senior but was too young to join the force. He was also accepted for fall enrollment at Kingsborough Community College (KCC).

Mr. Avvento’s Madison transcript confirms that he graduated in June 1989. He stated that in addition to working housepainting jobs for his father that summer, which would continue for the next couple years, he worked at Ace Steam Cleaners. Mr. Hanley, who worked with Mr. Avvento at Ace and is now proprietor, confirmed that Mr. Avvento worked nights power-cleaning houses, sidewalks and truck fleets.

Mr. Avvento maintained both jobs when he entered KCC that fall. Irene Lopez, Assistant Registrar at KCC, confirmed in writing his enrollment for the next two academic years. (His St. Francis College transcript confirms the subsequent transfer of 64 KCC credits.) Mr. Avvento reported that his routine during this period consisted of classes and study—this required additional effort due to his ADHD—work, daily exercise, and socializing with family and friends. Neither Ms. Gottesman nor any other source recalled notable emotional or behavioral issues beyond those cited above.

In June 1991, Mr. Avvento applied to the New York City Police Department.

Ms. Lopez's letter states that Mr. Avvento stopped attending KCC in December 1991 and did not receive a diploma because his immunization record was outdated and he did not apply for graduation.

#### **D. NYPD, 1992 – 2000**

Mr. Avvento reported that he began police-academy training in January 1992. Sources roundly recalled that he was ecstatic at the prospect of being an officer and studied intensively. He stated that early in his training, he suffered a hernia while exercising but did not report it for fear of having to withdraw from the academy. Thus, he went untreated and in pain. This was the first of what became a long series of injuries and ailments, many of which required surgery. (Documentation for many of Mr. Avvento's medical conditions and their treatment is referenced hereafter.)

Mr. Avvento stated that he graduated from the academy that July and was assigned to the Police Service Area 3 (PSA 3) Housing Bureau, covering several housing projects in Bedford-Stuyvesant. (The NYPD did not respond to numerous contacts regarding Mr. Avvento's employment record. Probation's Pre-Sentence Investigation Report (hereafter, "PSR") states that Mr. Avvento's NYPD employment began in February 1994. This is incorrect. He stated that this and the AUSA's comment during the proffer session that he was not an "active officer," indicating low arrest numbers, fail to account for his work under a separate tax-identification number at Housing, 191448, and later work in Central Booking.) He and former colleagues, cited below, reported that gunshots were common on his shifts—he recalled walking into a shooting—which were typically spent responding to incidents among the several projects he patrolled in the 79<sup>th</sup> and 81<sup>st</sup> Precincts. Mr. Avvento reported making numerous drug arrests while at PSA3.

That November, Mr. Avvento underwent hernia surgery. He would undergo a second hernia surgery the following June, on the opposite side, for an injury sustained pushing a van from a snow bank in January 1993. (These are documented in a June 21, 1996, medical history from orthopedic surgeon William K. Main, M.D.)



Two retired officers who worked with Mr. Avvento at PSA3—Detective Richard Caetano and Officer Robert Del Valle—characterized him as conscientious, responsible, reliable and, as Mr. Del Valle stated, “just a very good person, high standards...There was a lot of stress—crack, the projects, a *lot* of homicides—and he was totally reliable...a good officer.” Detective Caetano’s observations are particularly instructive regarding Mr. Avvento’s character and conduct:

What made him special, made him a good cop, was he tried to make a difference. He cared about those kids in the projects. He wasn’t trying to lock up the world...be “supercop”—any idiot could arrest people in the projects in the 90s—he would teach the kids, talk about staying in school...spending time trying to change things...“You want nice things, a nice house? Stay in school. Do your homework. Work hard. You can do it.” He encouraged them, constantly...He worked *hard*...didn’t come in to get a paycheck. He cared...Everyone respected him.

Family and friends recounted many conversations in which Mr. Avvento spoke passionately of attempting to affect change by reaching the children where he worked.

Outside of work, Mr. Avvento primarily socialized with friends and family, dated, exercised, and spent time with his dogs. As Mr. Hanley recalled, “He was the guy helping the old lady across the street. Literally.” Mr. Cultrera observed, “The first guy to help you out. You pick up the phone, he drops whatever he’s doing.” Regarding the exercise regimen, Mr. Hanley recalled, “A lot of it was because he wanted to be in shape so he could help his partner...He took his job very seriously...was very proud.”

In 1994, Mr. Avvento began to suffer severe gastrointestinal discomfort, including chronic diarrhea. That July, he began treatment with gastroenterologist David S. Klug, M.D. As indicated in his appended letter, Dr. Klug diagnosed chronic diarrhea, colitis, gastritis, and irritable bowel syndrome, from all of which Mr. Avvento has since continuously suffered. This began eighteen years of treatment for these and other gastrointestinal conditions, some acutely painful beyond the considerable daily discomfort. (See appended letter from Dr. Klug, **Exhibit A**.) Mr. Avvento reported taking Maalox, Xifaxan, and prescription and over-the-counter Prevacid daily for the next several years. Although he also



sustained various work injuries, he refused narcotic pain medication. As Donna Avvento observed, "He didn't believe in it."

After roughly two years at PSA3, Mr. Avvento transferred to the Community Policing Unit at the 66<sup>th</sup> Precinct. He stated that he left PSA3 with citations for Meritorious Police Duty and Excellent Police Duty. Over the next several months, he made further drug arrests. As indicated in the appended letter from retired officer Adam Golden, Mr. Avvento helped to coach Police Athletic League softball and basketball teams. (See Mr. Golden's letter, **Exhibit XX**.)

In roughly February 1995, Mr. Avvento was transferred to the Riot Unit in the Brooklyn South Task Force. Further significant medical conditions and procedures soon followed: That May, Mr. Avvento underwent emergency surgery for testicular torsion, an acutely painful twisting of a testicle's spermatic cord. This was quickly followed that month by two surgeries to repair a painful varicocele, an abnormal enlargement of the scrotal vein. (These surgeries are cited in Dr. Main's 1996 summary.) Afraid that he would be unable to father children, Mr. Avvento soon had his sperm frozen, at great expense. "He was so freaked out that he wouldn't be a father," Ms. Hanley stated. "More than anyone I know, man or woman, John wanted to be a parent...To see him with kids is amazing."

In late October 1995, at nearly age 24, Mr. Avvento sustained a severe back injury during the arrest of a shooting suspect. Dr. Main's 1996 summary states that Mr. Avvento "was trying to arrest a perpetrator when he landed on his lower back with a great deal of weight on his chest." Examination revealed herniated discs affecting the nerve root, and surgery was recommended. Due to the injury, Mr. Avvento was transferred to the 62<sup>nd</sup> Precinct. Dr. Main's summary indicates complaints in the coming months of chronic pain in the back, hip, legs and buttocks, standing or sitting, frequent spasms, and a lower back that "periodically 'goes out.'" Treatment included physical therapy, gravity boots, chiropractic, anti-inflammatories, exercise-bicycling, twice-daily heat treatments, twice-weekly ultrasound treatments, and intermittent use of the non-prescription painkiller Naprosyn. Mr. Avvento reported that although he was prescribed Vicodin, he did not use it until March 1996.

Dr. Main's summary cites a June 1996 incident in which Mr. Avvento reinjured his back in a tussle with "an emotionally disturbed person," as well as an imminent nasal surgery. Mr. Avvento reported that he was transferred to Central Booking that August. However, work there often entailed physical restraint of unruly detainees. Between such incidents and an auto accident that fall, confirmed in Dr. Main's record, Mr. Avvento was in nearly constant pain. He stated that he only intermittently resorted to Vicodin. Several sources cited this period as the beginning of his gradual emotional and mental decline. "He cried from the pain, it was so bad," Donna Avvento recalled. "He couldn't exercise like he wanted to anymore...felt like he wasn't who he used to be, but he didn't want to take [narcotic] medication."

That December, Dr. Main performed a lumbar laminectomy to repair the disc herniation. A lengthy recovery period followed, during which, Dr. Main's records state, Mr. Avvento experienced ongoing pain and underwent physical therapy.

Mr. Avvento's treatment regimen, reinjuries and recuperations would dominate his routine and increasingly affect his emotional state over the next few years. Dr. Main's records confirm ongoing pain, a June 1997 reinjury at work, and include the results of numerous MRI and orthopedic examinations during this period, which revealed a new bulging disc and tear. The "judicious use of narcotic analgesics" and a lumbar corset were recommended. Nonetheless, Mr. Avvento maintained a healthy lifestyle and attempted to avoid use of narcotic painkillers.

In January 1998, Mr. Avvento began classes as a Special Studies major—primarily History and Education—at St. Francis College. His transcript indicates 98 transfer credits between KCC and the police academy, continuous enrollment through the next couple years, no semester grade-point average below a rounded 3.7.

Dr. Main's records indicate that by that time, he was considering "spinal fusion" surgery to resolve Mr. Avvento's chronic and acute back, leg and foot pain, and numbness in his toes and feet. By that April, Dr. Main noted, "I would like John to take blood tests because I am concerned about the amount of medication he is taking...One of the reasons why surgery may ultimately be necessary is because he cannot continue to live on these pain

medications.” Dr. Main’s records confirm that Mr. Avvento suffered a serious knee injury and re-injured his back in a July 1998 “confrontation with a violent prisoner.” That December, Mr. Avvento underwent arthroscopic surgery and repair of a microfracture in his right knee. This again required lengthy recuperation and additional pain medication. In addition, MRI results from the following February indicate “diffuse degenerative disk disease...throughout the lumbar spine,” and a March 1999 summary from Dr. Main indicates “recurrent herniation,” likely due to “line of duty” injury. At the time, Mr. Avvento was prescribed the narcotic painkiller Darvon.

During this period, Mr. Avvento briefly lived with a friend in Brooklyn and then returned to live in his parents’ basement. Diane Yuzary, whom he dated for roughly eighteen months during the late 1990s, recalled of this period,

He was headed towards a prescription problem...depressed about his back, his knee, the surgeries...all the doctors, the physical therapy, paying attorneys for his lawsuit...constant heartburn, all kinds of terrible stomach problems...no money, he wasn’t sleeping...He’s *very* anxious, and it showed. He’d obsess on the slightest thing for days. Even going out, he was always nervous—“What if this happens? What if that happens?” He’s an emotional person...You could see anger coming out when he was on a lot of meds...but he wouldn’t ‘party’—wouldn’t do drugs, wasn’t a drinker...He’d tell me about all the opportunities to be a dirty cop and refusing to do it. He was proud...And with my [four-year-old son]? Amazing. My son *loved* him.

In late 1999, Mr. Avvento was transferred to the 62<sup>nd</sup> Precinct. By then, his NYPD career was all but certainly nearing an end due to injury. Retired Sergeant Richard Cosentino, who supervised him over the next several months, reported that despite “lots of pain” and signs of depression, Mr. Avvento “handled himself very professionally, did things by the book...was a diligent worker.”

Dr. Main’s records indicate that by the spring of 2000, pain was radiating through Mr. Avvento’s shoulder and neck. Summaries from this period express concern that Mr. Avvento’s symptoms “might endanger his fellow officers or citizens” due to his physical



limitations. That May, at age 28, Mr. Avvento retired due to his medical conditions. Sources uniformly characterized this as a period of severe depression. Mr. Hanley noted,

After he worked so hard, *loved* being a cop, that was the lowest for John...Here's a guy who'll always drop everything to help a kid, a stranger, teach him a better swing, and this keeps happening...He's a hypochondriac, but after a while, it keeps happening, he's in serious pain, what do you say? He's the guy who goes to pick up a ball and he gets clocked in the head. It's incredible...You can't convince him it's not the end of the world because things keep happening.

#### **E. Spring 2000 through Late 2004, End of Teaching**

Mr. Avvento continued to attend St. Francis College and soon obtained work as a counselor for Youth Dares, a now-defunct program that served at-risk public-school students. Michael Candella, former Director of Youth Dares and now Director at Advantage, an after-school enrichment program, reported that Mr. Avvento worked at John Jay High School, at the time "one of the schools with the most suspensions...He was the coordinator for an anti-violence program, also was a Youth Credit Recovery Teacher, for students who failed classes—totally involved with the students, totally dedicated, great rapport...went on trips with them...a very positive role model." Mr. Avvento reported that he also worked part time as a security guard for OCS security. Because he was required to stand for long periods, this exacerbated his pain.

During roughly late 2000, Mr. Avvento began psychotherapy with Nancy Gambitta, who is now deceased. He reported that he attended weekly therapy for the next six-plus years and heavily relied on her for support, advice and encouragement. Diagnosed with Depression and Anxiety, he began pharmacological treatment with Lexapro, which is commonly prescribed for both conditions.

In February 2001, Mr. Avvento earned his Bachelor of Science degree. His St. Francis transcript indicates a cumulative g.p.a of 3.7. He stated that he planned to make a career as a teacher, motivated primarily by his unfortunate experiences at St. Edmund's.



That April, Mr. Avvento co-purchased the Staten Island home of cousin Laura Coppolecchia and moved into one of the flats. He stated that he did so “to save her from foreclosure.”

Mr. Avvento’s orthopedic and gastrointestinal conditions and care continued unabated; sources recalled that the pain of his injuries was sometimes so acute that he cried or was unable to leave his residence. That August, he underwent surgery to repair the microfracture in his right knee. This again required additional pain medication and recuperation.

Mr. Avvento applied for teaching positions and was hired at Fontbonne Hall, a private girls’ school in Brooklyn. (A letter from the current principal, Sister Dolores Crepeau, CSJ, confirms that he began teaching in September 2001.) He stated that because he was recovering from surgery, he taught the first several weeks on crutches. Although his physical condition made daily work painful—Dr. Main’s summary from that October confirms the knee condition and indicates that Mr. Avvento was “increasingly disabled” in daily activities, requiring greater pain medication—Mr. Avvento reported that he “absolutely loved” teaching and considered it his life’s calling. However, rumors at the school that a student and he were romantically involved, which he adamantly denied, soon complicated his work and led to his resignation that December. (Mr. Avvento acknowledged that he did have a brief romantic relationship with a former student, but insisted that it began after his departure, after she was age eighteen.)

For the next several months, Mr. Avvento lived off of his NYPD pension and intermittent security work while he sought another teaching position. He stated that was aware at the time that he had become dependent on painkillers—up to twelve 750 milligram Vicodins daily—but had no other viable, immediate means to relieve pain.

Mr. Avvento reported that in roughly March 2002, he suffered and underwent surgery for another meniscus tear to his knee. As indicated in the above-cited letter from Dr. Klug, Mr. Avvento was also hospitalized during 2002 for pancreatitis—the month is not specified—a condition that, Dr. Klug wrote, “can be extremely painful and physically overwhelming.” He described Mr. Avvento’s pancreatitis as “chronic” and “recurrent,”

characterized by “frequent flares of abdominal pain,” his broader health characterized by “constant and daily acute pain...complicated by stress and depression.”

Around that time, Mr. Avvento moved into a rental apartment in Sheepshead Bay, where he would reside for the next three-plus years. Sources roundly reported that despite his medical condition and declining mental health, Mr. Avvento routinely assisted his parents, with whom he was developing a much closer relationship, and was unfailingly the first person to volunteer assistance in times of need. Donna Avvento stated that he maintained a close relationship with her adult daughter, who suffers from Down Syndrome, and “promised to take care of her if anything happened to me.” Socially, beyond regular events with family and friends, and time with his dogs, he began to date a woman named Nicole, his companion for the next four years.

In September 2002, Mr. Avvento began teaching fourth-grade History at Our Lady of Grace School, in Gravesend, Brooklyn. (A letter from the current principal, Joan McMaster, confirms his employment there through the next two-plus years.) By most accounts, this was both a high point and, due to further serious medical conditions, one of the most frustrating and disappointing periods of his life. Mr. Avvento stated that he missed the first day of class due to emergency debridement surgery—the removal of dead or infected tissue—on both knees following an injury the previous day. He showed for work the second day with the aid of heavy prescription pain medication.

Mr. Avvento stated that his daily pain continued at a high level throughout the fall. That December, due to severe osteoarthritis, he underwent the replacement of his right knee. (We requested records from the office of Kenneth Montgomery, M.D., who performed both surgeries, but had not received them as of this writing.) Mr. Avvento recalled, “I had a pain pump strapped to my waist for two weeks.”

Despite these significant hurdles, Mr. Avvento reveled in teaching and his interactions with students, particularly given his experience at St. Edmund’s. He stated that he also took a part-time job with Brienza’s Academic Advantage, tutoring third and fourth graders at public schools. (The agency had not responded to our request for confirmation as of this writing.) The following observations regarding this period are instructive:

He was my favorite teacher. He cared about his students, not just about the grades...He made it fun, interesting. He took an interest in everyone...was just an overall nice, nice person...He helped me mature a lot quicker.

- Cassandra Molinari, former student

He was a really good-hearted guy. There were dozens of times I sat down with him and told him what was going on in my life...He helped me a lot when my parents were getting divorced...He was everyone's favorite teacher. Anyone could go to him without being afraid....He called every year to wish me happy birthday. I needed a person like him, and he really affected me. He's a selfless person...always put other people before himself.

- Frank Elie, former student

It was unbelievable how interested the kids were when he taught...He took a liking to the underdog, and it rubbed off on the kids...so if someone had a handicap, that's the first kid my son wanted to be around. They all got something good from John...He made them *want* to be in school. When there was a substitute teacher, the kids were upset...When I was getting divorced, he came over and talked to Frank...The car broke down, he was there in a flash...Respectful, patient, kind...honest to a fault...knew the right thing to say...dressed very neatly, made the kids pull up their pants...always there to help [at fundraisers]. A lot of parents were very upset when he left.

- Rosemarie Eli, mother of Frank Elie and former Parent Liaison

My son never liked school before he met Mr. Avvento...now my son's going on to college. He motivated him...has a special way with kids...His class did extremely well on the statewide test because he gave extra help. They wanted to do well because of him...He did this thing where he asked a question and threw them the ball, and then they answered [and] threw the ball back. He was always doing different things, trying to get them interested.

- Lorraine O'Neill, mother of former student

He taught my wife's nephews. Their mother couldn't talk enough about how great he was with the kids.

- retired Detective Richard Caetano

Nothing came out of him with as much happiness, with as much self-respect, as when he was teaching. He was made for it...I can't tell you how many times I've been with him and a parent comes up to him and starts thanking him for helping their kid...or a kid he tutored for free. Countless times. That's John, because he felt bad for a kid who's struggling...It still happens.

- Michael Hanley



Immobility and pain increasingly made teaching more difficult for Mr. Avvento, who initially refused to call in sick but eventually began to miss workdays. Around this time, brother Nicholas Avvento began to notice symptoms of addiction. "He seemed lost, frustrated," he stated. During the summer of 2003, Mr. Avvento entered outpatient substance-abuse treatment at Bridge Back to Life. Marisa Mabli, Program Director, confirmed that he attended twelve sessions in June and July.

Mr. Avvento reported that although he was promoted to teaching grades six and eight, conflicts with the principal over her treatment of teachers, his consequent attempt to form a union, and his sick days created an increasingly tense work environment and exacerbated his depression and anxiety. In October 2004, the fall of his third year, a standoff of sorts developed after a parent complained about Mr. Avvento's tattoos, which he normally covered but a student saw on a dress-down Friday. "She knew I had tattoos before she hired me, and I always covered them up...dressed very nicely, very professional," he recalled. A showdown of sorts with the principal quickly developed. Notably, this occurred with major spinal surgery on the horizon. Mr. Avvento reported that when the principal shamed him in front of his students regarding the tattoos after the issue had been resolved with the pastor, he resigned.

By all accounts, this marked Mr. Avvento's emotional and psychological bottom to that point. Cousin Chris Koppchinski stated, "He always strived to be the best, always worked really hard. It really brought him down...that he couldn't be what he wanted to be. He couldn't accept it." Mr. Hanley recalled, "Again he lost the thing he was passionate about. At times he was hysterical crying...couldn't believe what was happening. It's like, 'What am I doing wrong?' It was like watching the waves come in one after the other, and they just keep coming."

A November 2004 summary from Dr. Main states, "In view of the persistent and debilitating nature of his lower back pain as well as the apparent failure of non-surgical treatment measures, surgical treatment is warranted. This will involve posterior spinal fusion with instrumentation and bone graft."